

# Akerman Practice Update

CORPORATE

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## Possible Registration of Private-Equity and Hedge-Fund Advisors

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As has been widely reported, Congress is considering legislation that would end the exemption from SEC registration currently enjoyed by most advisors to private-equity and hedge funds.

On October 27, 2009, the House Financial Services Committee voted, 67-1, to send H.R. 3818 to the floor of the House to address this issue. The full House may consider the measure as early as this month.

- The Bill would require all advisors to funds with \$150 million or more in U.S. assets to register with the SEC under the Investment Advisers Act of 1940. The Obama Administration has called for a much lower threshold, so there is a possibility that the threshold will be lowered as the legislation proceeds.
- Exempt advisors still would be required to maintain records and to provide reports, as directed by the SEC in future rulemaking.
- The Bill would provide for a one-year transition period before the new requirements become effective.
- The Bill would exempt advisors who provide advice to venture-capital funds and small business investment companies.
- The SEC would be authorized to enact rules to collect information from registered advisors in order to assess systemic risk issues, and to impose requirements as to the form of disclosure that registered advisors must make to their clients. The GAO would be required to issue a report within two years on the cost of compliance with the new requirements.

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